



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ELECTRONIC MAIL
CONFIRMATION OF EMAIL RECEIPT REQUESTED

Mr. John R. Diem
President
Ms. Cynthia Huffman
Product Registration Manager
Southern Agricultural Insecticides, Inc.
7400 Bayshore Road
Rubonia, Florida 34221
Cynthia.Huffman@southernag.com

Re: Southern Agricultural Insecticides, Inc.
FIFRA Notice of Warning
Case File No. FIFRA-04-2021-0708

Dear Mr. Diem and Ms. Huffman:

The U.S. Environmental Protection Agency has obtained evidence indicating that Southern Agricultural Insecticides, Inc. (Southern Ag) appears to be in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). On February 12, 2021, the EPA received a complaint that Southern Ag located at 7400 Bayshore Road Rubonia, Florida 34221 appeared to be offering for sale and distribution an unregistered pesticide product under the brand name "Southern Ag Kelp Green". The EPA reviewed several websites offering the product for sale, including amazon.com, doyourown.com, and the Southern Ag website <https://southernag.com/residential-products/kelp-green/>. It was found that the word "hormone" was used to describe the product's composition in several websites and that a product video illustrated that hormones including auxin, gibberellin, cytokinin, and betaine were part of the composition of Kelp Green. The EPA considers products which contain plant growth regulators as pesticides. At the time of this review, Southern Ag Kelp Green was not registered as a pesticide by the EPA.

Section 2(v) of FIFRA defines a plant growth regulator as a substance or mixture of substances which, through physiological action, will accelerate or retard the rate of growth, or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof. When the EPA reviewed the media associated with the product, it was found that there were claims that plant hormones such as auxin, gibberellin, cytokinin, and betaine were a part of the composition of Kelp Green. 40 C.F.R. 152.15 states that pesticides are any substance intended for a pesticidal purpose, *i.e.*, use for the purpose of preventing, destroying, repelling, or mitigating any pest or use as a plant regulator, defoliant, or desiccant. 40 C.F.R. 152.15(2)(b) states that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other

than use for pesticidal purpose (by itself or in combination with any other substance). Pursuant to Section 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A), it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

In response to the potential violation of FIFRA, the EPA is issuing this Notice of Warning (NOW) to Southern Agricultural Insecticides, Inc. pursuant to FIFRA Section 9(c)(3), 7 U.S.C. § 136g(c)(3). The EPA has determined at this time that a NOW is the appropriate enforcement response for the company's apparent violation of FIFRA, provided that within 30 days of the receipt of this NOW, an authorized official of the company [you] submit[s] a signed statement indicating that compliance with FIFRA has been achieved and identifying the actions taken to achieve compliance with the requirements set forth above. If this statement is not submitted and/or compliance is not achieved, the EPA may initiate a more formal enforcement action which could include the filing of a complaint and the assessment of a civil penalty. Your statement should be submitted to Seth Ramsay via email at ramsay.seth@epa.gov and in hard copy to the letterhead address. In the event that the EPA decides to initiate a more formal enforcement action, you will be notified in writing and provided an opportunity to meet with the EPA or conduct a conference call to present any facts, evidence or arguments as to why the EPA should not initiate such action.

Since your company may be classified as a small business, you may want to review the Information Sheet "U.S. EPA Small Business Resources," which can be found on the internet at: www.epa.gov/compliance/small-business-resources-information-sheet. This document will provide you with information regarding compliance and rights you may be entitled to under the Small Business Regulatory Enforcement Fairness Act.

Ms. Huffman, please forward this letter to Mr. Diem at your convenience. If you have any questions about this letter, and/or would like to discuss the above-stated findings by the EPA, please contact Seth Ramsay of my staff at (404) 562-9053 or by email at Ramsay.Seth@epa.gov.

Sincerely,

Kimberly L. Bingham
Chief
Chemical Safety and Land Enforcement Branch

cc: Mr. Neil Richmond; FDACS (neil.richmond@fdacs.gov)